P 8

G.F. 71.

1937.

Department of Revenue

OFFICE of the Board of Revenue

STATION Chepauk

Misc **No.** 3697

E 3643/37

Dated 30.11.37

Pages in the file

(SUBJECT.)

Sett - Resett. (S. Kanara) - Manjalune th. - Villal village - 8110 bb/bc - change of classification - and enhanced rate of assessment - Reclassification - Appeal - order passed.

1

RP 93
GRN 1/4/-
F3 6/3

BOARD OF REVENUE
MADRAS
18 JUL 1937

Before the Board of Revenue,
Land Revenue & Settlement,
M A D R A S.

Frank L.J. Lobo, Landholder,
Kodialbail, Mangalore. } Petitioner.

INDIA COURT FEE INDIA
TWELVE ANNAS
MADRAS
1937

Being highly aggrieved by the order of the Collector of South Kanara passed in his D.Dis. 2723--37 d/ 13-6-1937 (enclosed duly stamped) the petitioner abovenamed begs to approach the Board for the redress of his grievances.

S. No.66-6C of Ullal Village, Mangalore Taluk, measuring 2.62 acres in extent was first assigned in D.R. 650/42 on the file of the Tahsildar, Mangalore at the dry rate of Re.1-4-0 per acre. In the last fasli (1346), petitioner was informed that the rate of assessment on the plot was revised to Rs.6-12-0 per acre and difference of back assessment for 8 years was collected from him.

Pte to the petitioner calling for a court fee stamp to the value of 0-12-0 before 27-8-37

DESPATCHED
28 JUL 1937

The action of the Revenue Authorities in revising the rate without notice to the petitioner is illegal and has caused great hardship. When the Tahsildar was addressed in the matter, petitioner was told that he ought to have objected to the change of classification before the Settlement Authorities. But no notice had been received from the Settlement Authorities regarding the plot in question although such a notice had been received in respect of the other plots already in the holding, probably because the plot in question had not been included in the holding at the time. It has to

3

be pointed out that on the objection of the petitioner, the Special Settlement Officer did reduce the assessment of S. No. 66/2 in the holding from Rs.6-12-0 to Rs.4-8-0 --- an adjoining plot. If notice has been issued in respect of S. No.66/6C which is of a much more poor quality than S. No.66/2, petitioner would have got his grievances redressed then. Now, to brush aside the petitioner's objection with regard to S.No. 66/6C is, to say at least, arbitrary and not justified by the common rule of hearing objections.

A.

The order of the Collector of South Kanara is therefore wrong. Evidently the Revenue Authorities are not pleased to bestow the thought that the matter deserves as they find it safe to shove the responsibility on the Settlement department, whoever was responsible for the unwarranted change of classification, petitioner's case has become hard as he had no opportunity of filing his objections before.

It is therefore prayed that the Board may be pleased to consider the case in the light of the facts stated above and order a revision of the rate of assessment in respect of the plot, S. No.66/6C of Ullal Village, on its merits.

Kodialbail,
13th July, 1937.

Frank Ly. Lobo
Petitioner.

D.Dis. 2723-37.

5

Proceedings of the Collector of South Kanara dated 13th June 1937.

T. A. Varghese, Esquire, I.C.S.

Settlement - Resettlement - Mangalore Taluk - Ullal village - S.No. 66/6C -change of classification and enhanced rate of assessment - rectification - petition -dismissed.

Petition dated 1-6-37 of Frank L.J. Lobo, Landholder, Kodialbail, Mangalore.

Order.

The petition is dismissed.

(By order)

Huzur Sheristedar.

15/6/37

To the petitioner.

Copy to the Tahsildar of Mangalore.

15.6.37

INDIA COURT FEE INDIA

TWELVE ANNAS

BOARD OF REVENUE

7 - AUG 1937

e,
ettlemt
adras
ani
egore). } Petitioner.

As per No. F3643/37 dt. 27-7-37 received, a Court fee stamp to the value of 0-12-0 annas (twelve only) is enclosed herein. Kindly accept the same.

Kodiakbail,
4-8-37.

Yours truly
Petitioner.

9

Sett. Rebett. (S. Kanara) - Mangalore taluk. Ullal village S.No 66/6c. change of the classification and enhanced rate of assessment - rectification

F 3648/37 From Frank A. J. Lobo of Kodialbail dt 13.7.37

Ref F 3648/37-1 dt 13-8.37

forwarded to the Coll. of S. Kanara for resubmission with the connected records together with a report on the allegations which are not clearly dealt with in the records.

E.P.R
12-8.37

To the Coll. of S. Kanara with the appeal petition and enclosures to be returned.

Acknowledged to 7e

11

D.Dis. 4181-37.

South Kanara Collector's Office,
Mangalore, dated 21 - 10 - 1937.

F5909

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl., B.A.,
Collector of South Kanara.

25 OCT 1937

To

The Secretary to the Board,
Land Revenue & Settlement,
Madras.

Sir,

Settlement - Resettlement -Mangalore Taluk -S.No.66/6C- change of classification and enhanced rate of assessment - Rectification -petition -reported.

Board's Reference F.No. 3643-37-1 dated 13-8-37.

I resubmit herewith the petition of Frank L.J.Lobo with its enclosures received with the Board's reference quoted above and state as follows:-

2. The main contention of the petitioner is that the plot S.No. 66/6C measuring acres 2.62 of Ullal village has been now charged with a high garden rate of assessment of Rs.6-12-0 per acre even though it was assigned by the Tahsildar in D.R. 650/42 at the dry rate of assessment of Re.1-4-0 per acre. His prayer is that a reasonable and appropriate rate of assessment may be fixed for it.

3. The plot was Government waste land at the last settlement and was classed as dry and assessed at Re.1-4-0 per acre then. During the Resettlement operations lists of unauthorised occupations in Government land were made out with a view to reclassification and assignment. The plot in dispute was so listed as it was found to have been enclosed and converted into a garden. The Settlement Inspector and Assistant Settlement Officer after inspection proposed its reclassification as garden as it contained 51 bearing cocoanut trees and recommended its assignment at the garden rate of Rs. 6/-

obtaining for the adjoining garden S.No. 69/3 and this was approved by the Settlement Officer in his order dated 26-7-31 at page 10 of the Assessed Waste Register. The Resettlement operations were postponed to the year 1934-35 and then ~~was~~ were stopped. The question of assignment of the encroachment in question therefore came up before the Tahsildar. The Tahsildar assigned the plot in dispute (S.No. 66/1A2C) revised as 66/6 C to the petitioner's predecessor-in-title P.G. Albuquerque in his order D.R. 650/42 dated 11-1-34 at the dry rate of assessment of Re.1-4-0 per acre - the rate in adoption in the Settlement Register at the time. Owing to a survey mistake in the field, it had to be resurveyed so that the plot could not be included in the holding till Fasli 1346. By that time the supplemental Land Register imposing the garden rate of Rs. 6-12-0 on the plot was received from the Settlement office. The plot which was thus assessed at the garden rate was included in the petitioner's holding at the Jamabandi of Fasli 1346.

4. It is true that no opportunity was afforded to the petitioner or to his predecessor-in-title to object to the levy of the enhanced garden rate of Rs. 6-12-0. If the plot had been included in the holding concerned soon after its assignment it would have been subject to reclassification at the resettlement itself and petitioner would then have been given the usual notice regarding the proposed reclassification and enhancement of rate. He would then have had an opportunity to file his objection petition. It is no fault of the petitioner that the land required fresh resurvey resulting in delay in bringing the item to Village Account No. 3 and its inclusion in the holding. He has however not been prejudiced by this want of notice.

5. The petitioner does not complain about the reclassification but only as regards the high rate imposed and there is nothing in the resettlement notification or the rules issued thereafter empowering the Collector to reduce the rates imposed at the resettlement. A petition seeking a reduction of revenue was dismissed by my predecessor in his Proceedings D.Dis. 2723/37 dated 13-6-37.

6. With a view to see whether there is any case for reduction of assessment as prayed for by the petitioner, the Tahsildar was asked to inspect the plot and report on the point. The Tahsildar's personal inspection shows that the plot contains 17 non-yielding and 33 yielding coconut trees and that the trees are not in such a good condition as those standing in the adjoining garden S.No. 66/2, the assessment of which originally fixed at Rs. 6-12-0 was reduced on objection to Rs. 4-8-0 per acre and that it will be reasonable to reduce the rate of the plot in dispute to Rs. 4-8-0 per acre. I agree with the Tahsildar and recommend that the rate may be reduced to Rs. 4-8-0 per acre.

7. The connected records as described in the margin* are submitted.

* 1. Huzur file D.Dis. 2723-37 dated 13-6-37.
2. Mangalore Taluk D.R.550/42 dated 11-1-34.
3. Mangalore Taluk I.Dis.3154-37 dated 7-5-37.
4. Eyesketch with adangal extract.
5. Settlement Assessed Waste register.

21-10-37

For Collector.

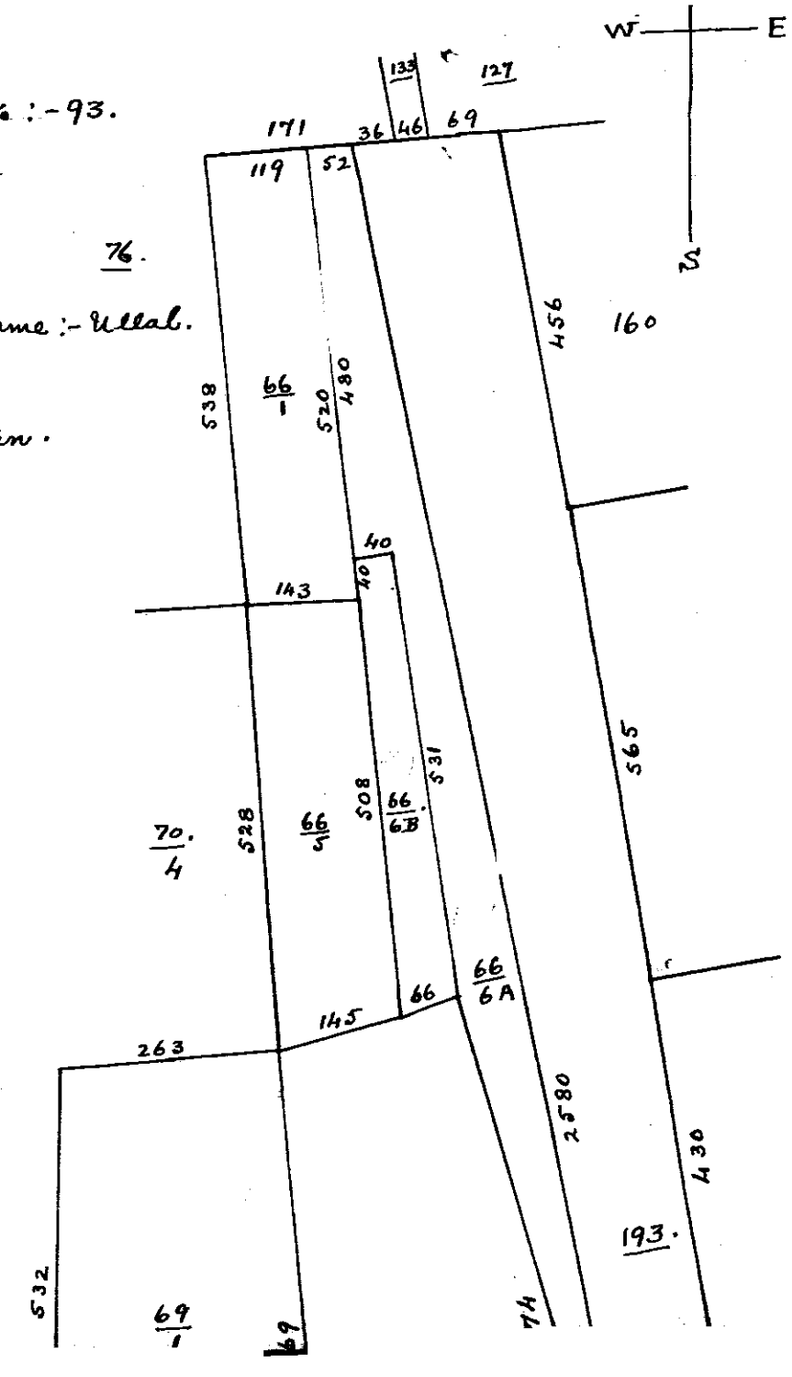
21-10-37

District :- South Kanara.

Village No. :- 93.
Name :- Ullal.

Taluk :- Mangalore

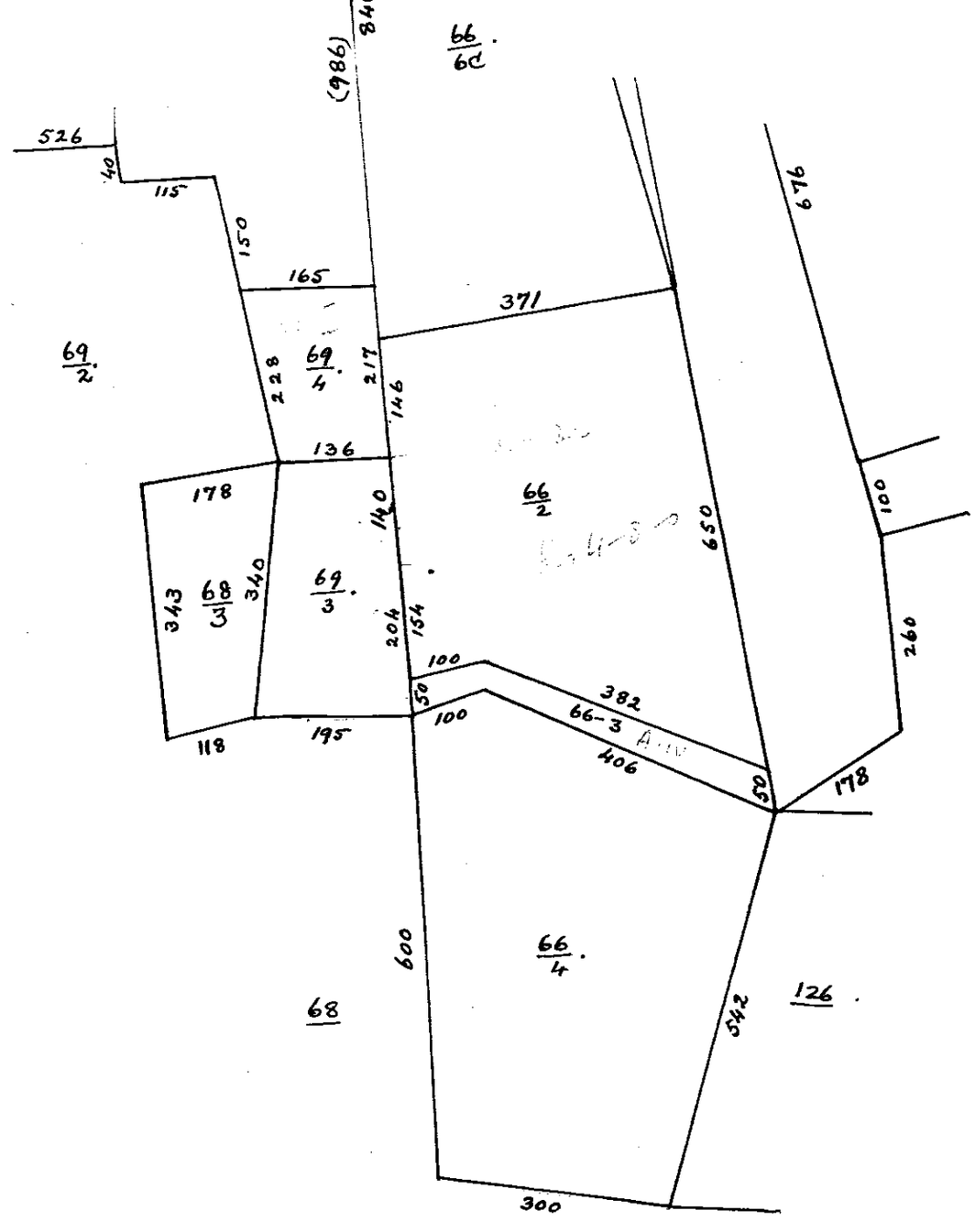
Rough scale 1/2 inch = One chain.



Index.

Survey no and Sub-division		Pattadar's no & name.	
(1)		(2)	
66	5, 6B.	370	F. P. S. Albuquerque. Hosagme
69	1, 3	173	J. M. D. Vas.
	4	296	Frank Lawrence John Lob
66	6C	Do	— Do —.
	2	296	— Do —.
193	---	---	Porambokke road
66	3.	---	Assessed waste.
	6A	---	Do

U. T. Vittal Ray
Shanbhogue
4. 9. 37.


(986)
841
66/6d
526
40
115
150
165
371
676
69/2
69/4
228
217
146
136
178
140
66/2
650
100
68/3
343
340
69/3
204
154
100
50
382
66-3
406
50
178
260
118
195
100
600
66/4
68
542
126
300

151

17

A ರಿಜಿಸ್ಟ್ರಿ

R. F. III C 1—13,080—5-1-36

ದಕ್ಷಿಣ ಕನ್ನಡಾ ಜಿಲ್ಲೆಯ ಮಂಗಳೂರು ತಾಲೂಕು ನಂಬ್ರ 93 ನೇ ಉಳ್ಳಾಲ ಗ್ರಾಮದ ಸರ್ವೆ ಮತ್ತು ಸೆಟ್ಲಮೆಂಟ ರಿಜಿಸ್ಟ್ರಿ 1346 ನೇ ಫಸ್ಲಿಬಗ್ಗೆ.

ಸರ್ವೆ ನಂಬ್ರ.	ಸೆಕ್ಷನ್ ಡಿವಿಜನ್.	ಹೊಲದ ಸರ್ವೆ ನಂಬ್ರ ಮತ್ತು ಪೈಕಿ ನಂಬ್ರ.	ನಂಜಿ (ನ I = 1 ನೇ ಕ್ಲಾಸ್ ನಂಜಿ, ನ. II = 2 ನೇ ಕ್ಲಾಸ್ ನಂಜಿ, ನ. III = 3 ನೇ ಕ್ಲಾಸ್ ನಂಜಿ), ಬಾಗಾಯ್ತು (ಬಾ), ಪುಂಜಿ (ಪು.), ತೀರ್ವೆ ಹೊರಿಸದು (ತಿ. ಹೊರಿಸದೆ) -ಯೂ- ಪೊರಂಬೋಕು (ಪೊ.).	ಒಂದು ಬೆಳೆ (1) ರಸಾ- ಎರಡು ಬೆಳೆ (2). Single crop (1) Double crop (2).	ನಂಜೆಯ ನಕ್ಷಾ ನಂಬ್ರ ತರ್ಹೆ. Field classification	ತರಂ. Tarum	ಎಕ್ರೆ 1 ರ ದರ. Rate per acre.				ತೀರ್ವೆ. Assessment		ಹಕ್ಕುದಾರನ ಹೆಸರು. Name of holder.	ಸೊಲ್ಲ ಗೇಣಿದಾರ ರ ಹೆಸರು ಅವನ ವಿಳಾಸ. Name, address of tenant	ಷರಾ. Remarks
1	2	3	4	5	6	7	8				10		11	12	13	
							ರೂ.	ಆ.	ಪಾ.	ಸೆ.	ರೂ.	ಆ.				
66	2	Hoo	ಬಾಗಾಯ್ತು Garden	—	7-3	5	4	8		06	9	4	296 ಫ್ರೈಂಚ್ ಲೀಸಿನ್ಸ್ ಹೊನ್ನೆಮಿಸ್ಸಿ. (Rate per acre reduced from 6-12-0 to Rs 4-8-0, as per Iq C No 1145/35 6.10.35).			
	6d	Hoo	— ಇ — Garden	—	7-3	3	6	12	2	62	17	11	296. ಫ್ರೈಂಚ್ ಲೀಸಿನ್ಸ್ ಹೊನ್ನೆಮಿಸ್ಸಿ. DR 650/42. 11.1.34. Iq S.D 306/1343.			
					(True extract)						J. Vittal Day. Shanbhogue 4-9-37					
66	1	Hoo	Dry	—	7-3	3	1	4		66		13	132. Krishnaya Shenoyam.			

	3	–	Dry	–	7-3	3	1	4	•	31	2	14	153. H. Luma Bai.		
	4	Hoo	Dry	–	7-3	3	1	4	•	72	•	14	370. F.P.S. Albuquerque.		
	5	Hoo	Dry	–	7-3	3	1	4	•	78	1	•	... (Assessed waste).		
	6A	–	Dry	–	7-3	3	1	4	•	37	•	7	370. F.P.S. Albuquerque.		
	6B	Hoo	Dry	–	7-3	3	1	4	•	93	6	8	173. J.M. D. Vas.		
69	1	Kadim	Garden	–	12-2	6	3	6	•	86	30	14	296. Frank L. J. Lobo.		
	2	"	Wet II.	1	13-2	5	4	8	6	86	30	14	296. Frank L. J. Lobo.		
	3	"	Garden	–	12-2	3	6	12	•	57	3	14	173. J.M. D. Vas.		
	4	"	Wet II	1	12-2	4	5	10	•	32	1	13	296. Frank L. J. Lobo.		
70	4	"	Garden	–	7-2	3	6	12	1	11	7	8	370. F.P.S. Albuquerque.		
68	3	"	Wet II	1	13-2	5	4	8	•	49	2	3	153. H. Luma Bai		

(True extract) G. J. Vittal Rao
21. X. 37
Shambhogue

[C.A. 4] 20

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied	1/12	
When examined	1/12	
When signed		
When despatched.		

SUBJECT:— Settlement. Relief. (S. Kanara) - Mangalore tk - Ullal village. Proposal for change of classification and enhanced rate of assessment. ~~reduction~~. Rectification. Appeal orders passed.

READ AGAIN, dated 19.

" " " 19.

READ *ALSO*:—

pp 1.3.37 No. F 3643/37 From the petitioner, No. Nil, dated 12.7.1937 — Q

" " " 19.

pp 11.1.37 " F 5909/37 Corr. S. Kanara " Dis. 4187.37 Dy 21.x.37 19 — Q

Order / Resolution Ms. / Rout. No. 3697, dated 30-11-1937.

No. 087 For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due. Rs. As. Date-stamp.

Received a registered * addressed to

Initials of Receiving Officer. * Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.

Insured for Rs. (in figures) (in words)

Insurance fee Rs. As. (in words)

Weight Rate Tolas

Name and address of sender.

CHEPAUK

Circumstances stated of S. Kanara in his above, the Board's recommendation of assessment on of Ullal village in ne tk. should be reduced to Rs 4-8-0 per acre. It also directs the refund of the excess assessment collected for fasli 1346.

2. The records received from the Corr. are herewith returned.

21

37. The petitioner is referred to the Commr. of S. Kanara for orders on his appeal.

(to)

30/11/37

29.11.37

29/11

Agreed

To the Commr. of S. Kanara with the records as per him.

2/12/37.

To the petitioner — para 3

Kept in petitioner's file and acknowledged. Cy. pl. be to the applicant file

Sett. Resett. (S. Kanara)
Mangalore taluk. Ullal village.
RS no 66/6c. Change of
Classification and enhanced
rate of assessment. rectification,
Appeal.

As (Sett)

pp1-3 c7

F 3648/37 from Frank L.J. Lobo
Land holder, Kodialbail,
Mangalore.

To As (Sett)

Please see the
appeal at pp1-3 c7 from Frank
L.J. Lobo of Kodialbail, Mangalore
tk. against the order of the Coll.
of S. Kanara at p5 c7. It will be
seen that the objection raised
by the petitioner should have been
made at the time of the ~~resettle~~
resettlement. But the petitioner states
that he was not served with a
notice regarding the plot in question
at the time of the resettlement
although he received notices for other
fields. and that therefore he
could not have his grievance redressed
then. In the circumstances this

petition at p2 c7

to be considered as a probate settlement appeal in which case it is liable to the stamp duty of Rs 2/- to the value. As stamps to the value of 1-4-0 only have been affixed, the deficit stamp to the value of 0-12-0 may be called for. Further orders.

Do this
28/7

2/. The appeal is in time.

E.P.R.
22.7.37
28/7

As (Sett)

To As (Sett)

A pc. reference x is sent below for approval.

x affixed at p.c.7

E.P.R.
27.7.37

28/7

As (Sett)

F 4110/3. From the Petitioner.

To As (Sett).

The petitioner has since sent the deficit Court fee stamp called for.

p.7c7

2/. The appeal petition may now be sent to the Coll. for resubmission

with the connected records together with a report on the allegation not clearly dealt with in the records

Draft Submitted

E.P.R. 12.8.37

13/8/1937

As (Sett)

J.S(7) 13/8.

Issued as Bd's ref. F 3647/37-1, dy 13.8.37 F 5909/37 from the Comr of S. Kanara.

To As (Sett)

Please see the Bd's ref. at page 7 and the Comr's reply at pp 11-13 c7.

Sy. Frank L. J. Lobo of Kodialbail village, Mangalore tk has submitted an appeal petition against the order of the Comr. of S. Kanara in his Dis 2723-37 dy 13.6.37 dismissing his request for the reduction of the existing rate of assessment of Rs 6-12-0 per acre on Rs 10 bb/be. The Comr. of S. Kanara has

explained in detail the circumstances under which the field came to be assessed at Rs 6-12-0 per acre. After inspection of the field by the Tahs. Mangalore, the Cor. states that there are 17 non-yielding and 33 yielding coconut trees on the field and that they are not in such a good condition as those standing on Bno 66/2. The assessment of which originally fixed at Rs 6-12-0 per acre was subsequently reduced on objection to Rs 4-8-0 per acre. He therefore recommends that the field in question may be assessed at Rs 4-8-0 per acre. It is therefore clear that the field was wrongly placed under 7-3-3 by the Settlement Dept. which it deserves to be placed under 7-3-5. The eye sketch at p 15 c7 shows that both the fields 66/2 and 66/6c adjoin each other. In the circumstances the Cor's recommendation may be accepted and the wrong classification may now be rectified and the petitioner directed to apply to the Cor. for orders on his appeal. For orders.

Can Li Board interfere in case of wrong classn. during the currency of Li Act? Is Limitation time for such appeals? Does any question of refund arise? 4/11

This may be done. 9/11/33

9/11/33

E.P.R. 1.11.37

JS (7)

As (S.E.H)

To As (SEH)

Please see the Joint Secy's queries on the previous page. As I was touring on camp. from 4.11.39 for a period of ten days, I requested I may be granted time till 20.11.39 to answer the queries, Precedents if there are any, have to be traced out from imp.

E.P.R
17.11.39.

17/11

Yes. I think the Board interpreted a similar case in Malabar. Patch up

17/11

To As (SEH).

Reg. Joint Secy's queries on the previous page:-

2). From a search made in the records for precedents, it is found that in the cases disposed of in Pol Misc 4862 & 17.12.36 and Misc 9785 & 17.3.36 The wrong classification made by the Sett Deptty in the Malabar Dr. was rectified by the CBR. after inspection. The question of refund in those cases was also discussed in detail in the concerned Pol.

3). If the Board accepts the CBR's recommendation the question

(P.T.O)

of refund of the excess amount collected from the Party will eventually arise.

4/- This is a post settlement appeal and the appeal time in such cases is 3 months. - Vide last sentence of Rto. 172-8(ii) p 943 of 1950 Vol IV

E.T.R.
22/2/37
WD
26/11

This more or less falls under the category of Correction of Errors. Such errors can be set right when they come to notice and data to the Revenue registers issued. Refund of excess amount may be made for Fasli 1346.

Issue.
Rn.
25/11/37

J.S.(F)

The Inspector's letter gives the valid peculiar circumstances in which his petition was denied an appeal against his original classification order. He has taken his conscious mistake appealed to him to appeal. The Inspector records his in good faith refund was too high and his Cont. recommends reduction to Rs 4.8. The B.R. may accept his recommendation.

25/x

Issued
28 NOV 1937

26/11

R.

AS (Sett) 2

TO AS (Sett)

Please see the orders. On the previous page 2/. Draft is subd. for approval.

E.P.R.
29.11.37

30/11/37

19/11

(F. Section)

BOARD OF REVENUE
10 DEC 1937
MADRAS

List of enclosures to Board's Misc.3557 dated 30-11-37.

1. Huzur file D.Dis.2725/37 dated 13-6-37.
2. Mangalore Taluk D.R.650/42 dated 11-1-34
3. ,, D.Dis.3154/37 dated 7-5-37
4. Settlement assessed waste register.

Records mentioned above have been received.

(B.D.) [illegible]
Huzur Sheristadar.
3/12/37

[illegible]
8/12/37